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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E.T.I. EURO TELECOM INTERNATIONAL N.V.,

Plaintiff,

-against-

**REPUBLIC OF BOLIVIA and
EMPRESA NACIONAL DE
TELECOMUNICACIONES ENTEL S.A.,**

Defendants.

08 CV 4247 (LTS)

**FOURTH DECLARATION
OF ROBERT L. SILLS**

ROBERT L. SILLS declares the following to be true:

1. I am a member of the bar of this Court and of Orrick, Herrington & Sutcliffe LLP, attorneys for plaintiff E.T.I. Euro Telecom International N.V. ("ETI") in the above-entitled action. I make this Declaration in further support of ETI's motion for an order of attachment.
2. In my prior declarations in this proceeding, I described the efforts that ETI made to have a tribunal constituted in the ICSID arbitration that it has brought against Bolivia, and the efforts that Bolivia has made to prevent that from happening. As described in my Declaration dated June 23, 2008, after Bolivia defaulted on its obligation to respond to ETI's proposal for an arbitrator selection procedure, ETI, on January 2, 2008, invoked ICSID's default procedure for arbitrator selection, which is reflected in ICSID Arbitration Rule 3. Due to Bolivia's delaying

tactics, however, ICSID did not confirm that this default procedure was to be used until almost four months later.

3. By letter dated June 20, 2008, ETI, as contemplated under the ICSID default procedure, wrote to representatives of the Bolivian government asking them to appoint an arbitrator on behalf of ETI. Also pursuant to the default procedure, ETI proposed a second individual to serve as President of the Tribunal, and invited Bolivia to respond by appointing its own arbitrator and either concurring in ETI's proposal for President or identifying its own nominee. A copy of ETI's June 20 letter is attached as Exhibit 1.

4. Pursuant to ICSID Arbitration Rule 3, Bolivia was required to respond "promptly" to ETI's June 20 letter. Consistent with its prior conduct in the ICSID proceeding, it has never responded.

5. By letter dated July 7, 2008, ETI reminded Bolivia of its obligation to "promptly" designate an arbitrator and take a position on who should serve as President of the Tribunal. In light of Bolivia's refusal to date to comply with ICSID's rules, ETI also advised Bolivia that if Bolivia has not performed its obligations under the ICSID default procedures by Friday, July 18, ETI will request that the President of ICSID's Administrative Council appoint the two remaining arbitrators, as contemplated by ICSID Arbitration Rule 4 (a separate rule from the default procedures set forth in Rule 3). A copy of ETI's July 7 letter is attached as Exhibit 2.

6. Entel's argument that ETI could have written to ICSID months earlier and requested that it constitute a tribunal months earlier is a gross mischaracterization. (Entel's Sur-Reply at pp.12-13). It is true that ICSID Arbitration Rule 4 provides that either party to an ICSID proceeding may write to ICSID once 90 days have passed since the Request for Arbitration was registered, and request that the President of ICSID's administrative council

appoint the remaining arbitrators.¹ However, if ETI had done this before the ICSID default procedures were in place, it would have been required to forfeit its right to appoint its own arbitrator. That is so because there was no mechanism for it to appoint its arbitrator until ICSID pronounced that the default procedure would be used. Moreover, given that Bolivia succeeded in delaying for almost four months ICISD's invocation of its own default procedure, it strains credulity for Entel to say that the Tribunal could have been constituted in advance of the May 1 issuance of the nationalization decree, even if ETI had been willing to forfeit this important right to appoint its arbitrator.

7. Bolivia and Entel recently succeeded in persuading a UK court to discharge a freezing order that ETI obtained over certain Entel assets in a parallel UK proceeding. That ruling was made based on a UK court's interpretation of UK law. In that proceeding, moreover, Bolivia made the same disingenuous argument that Entel advances here, that ETI could somehow have caused a Tribunal to be constituted months ago.

8. In a press statement announcing the English ruling, Bolivia's Nationalization Minister, Hector Arce, stated as follows, as reported by Reuters:

Arce said Bolivia will not allow the World Bank to arbitrate in a dispute with Telecom Italia over compensation for the nationalization.

Bolivia's withdrawal from the World Bank's International Center for Settlement of Investment Disputes (ICSID) last year makes the country immune to a claim filed in May by the Italian firm, Arce said.

"Bolivia has pulled out of the ICSID . . . it does not allow this institution to rule over disputes related to investments," said Arce, who was appointed in June to defend Bolivia in legal battles over the nationalization of foreign firms.

¹ Moreover, the right to request that a tribunal be constituted promptly does not assume that it will be.

A copy of the Reuters report is attached as Exhibit 3.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 14, 2008 at New York, New York.


Robert L. Sills

EXHIBIT 1



June 20, 2008

Robert L. Sills
(212) 506-5110
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BY FEDERAL EXPRESS

Republic of Bolivia
c/o H.E. Evo Morales Ayma
Presidente Constitucional de la República
Placio de Gobierno
La Paz, Bolivia

H.E. David Choquehanca Céspedes
Ministero de Relaciones Exteriores y Culto
Plaza Murillo – c. Ingavi esq. c. Junin
La Paz, Bolivia

H.E. Gustavo Guzmán
The Ambassador of Bolivia
Embassy of the Republic of Bolivia
3014 Massachusetts Avenue, NW
Washington, DC 20008

Arbitration between E.T.I. Euro Telecom International N.V. and Republic of Bolivia,
ICSID Case No. ARB/07/28

Dear Sirs:

By letter dated April 25, 2008, Ms. Eloïse Obadia of ICSID confirmed that the formula provided in Article 37(2)(b) of the ICSID Convention will be used for purposes of constituting the arbitral tribunal in the above-titled arbitration. Further to Ms. Obadia's letter and ICSID's Arbitration Rule 3(1)(a), our client, E.T.I. Euro Telecom International N.V. ("ETI"), hereby appoints Professor Francisco Orrego Vicuña as an arbitrator, and proposes Hon. Marc Lalonde, P.C., O.C., Q.C. to serve as President of the Tribunal. ETI invites the Republic of Bolivia to



O R R I C K

June 20, 2008

Page 2

concur in the appointment of Mr. Lalonde as President, and to appoint a third arbitrator.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert L. Sills", written over a horizontal line.

Robert L. Sills

Copy (by e-mail) to
Nassib G. Ziadé, Esq.

EXHIBIT 2



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July 7, 2008

Robert L. Sills
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BY FEDERAL EXPRESS

Republic of Bolivia
c/o H.E. Evo Morales Ayma
Presidente Constitucional de la República
Placio de Gobierno
La Paz, Bolivia

H.E. David Choquehanca Céspedes
Ministero de Relaciones Exteriores y Culto
Plaza Murillo – c. Ingavi esq. c. Junin
La Paz, Bolivia

H.E. Gustavo Guzmán
The Ambassador of Bolivia
Embassy of the Republic of Bolivia
3014 Massachusetts Avenue, NW
Washington, DC 20008

Arbitration between E.T.I. Euro Telecom International N.V. and Republic of Bolivia,
ICSID Case No. ARB/07/28

Dear Sirs:

I write further to my letter of June 20, 2008, by which our client, E.T.I. Euro Telecom International N.V. ("ETI"), appointed Professor Francisco Orrego Vicuña as an arbitrator, and proposed Hon. Marc Lalonde, P.C., O.C., Q.C. to serve as President of the Tribunal, in the above-titled arbitration.

By letters dated June 26 and June 30, 2008, Eloïse Obadia, Esq. of ICSID confirmed, on behalf of ICSID, that ETI had made the above-referenced appointment of Professor Vicuña and proposal that Mr. Lalonde serve as President, and further confirmed that Professor Vicuña has agreed to serve as an arbitrator. Pursuant to ICSID Arbitration Rule 3(1)(b), the Republic of Bolivia is now required "promptly" to: (i) appoint an arbitrator; and (ii) either concur in the appointment of Mr. Lalonde as President or make a counter-proposal for a different individual to serve as President. Moreover, because more than 90 days have passed since ICSID registered ETI's Request for Arbitration, ETI is entitled, pursuant to Arbitration Rule 4, to request that the



O R R I C K

Republic of Bolivia
c/o H.E. Evo Morales Ayma

H.E. David Choquehanca Céspedes
Ministero de Relaciones Exteriores y Culto

H.E. Gustavo Guzmán
The Ambassador of Bolivia
July 7, 2008
Page 2

Chairman of ICSID's Administrative Council appoint the two arbitrators, in addition to Professor Vicuña, who will serve on the Panel, and to designate one of them to serve as President.

We do not yet have a response from you to either my letter of June 20 or Ms. Obadia's correspondence of June 26 and June 30. We accordingly write to advise you that if Bolivia has not complied with its obligations pursuant to ICSID Arbitration Rule 3(1)(b) by Friday, July 18, then ETI will invoke its rights under Rule 4 and request that the Chairman of the ICSID Administrative Council appoint the two remaining arbitrators and designate one of them to serve as President of the Tribunal.

Very truly yours,

Robert L. Sills

Copy (by e-mail) to
Nassib G. Ziadé, Esq.
Eloïse M. Obadia, Esq.

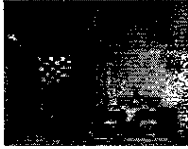
EXHIBIT 3

REUTERS
UK



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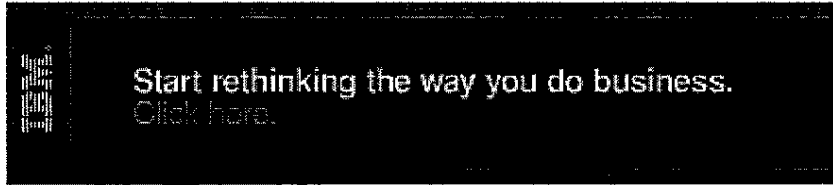
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Bolivia seizes funds moved by Telecom Italia

Mon Jul 14, 2008 11:39pm BST

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LA PAZ, July 14 (Reuters) - Bolivia has seized some \$49 million that Telecom Italia (TLIT.MI: [Quote](#), [Profile](#), [Research](#)) transferred to a British bank before the company's Bolivian subsidiary Entel was nationalized by the government earlier this year, officials said on Monday.

Bolivian President Evo Morales announced the government takeover of Entel on May 1, claiming Telecom Italia failed to meet investment commitments and owed the state \$645 million in fines and back taxes.

The Bolivian government is facing legal challenges from the company over compensation.

Nationalization Minister Hector Arce told reporters in La Paz the money had been recovered by Bolivian authorities.

Bolivia is also seeking to seize another \$31 million that Telecom Italia transferred from Entel to a U.S. bank, Adalid Cabrera, a spokesman for Arce, said.

The money will be turned over to Entel and invested in the company's expansion, Cabrera told Reuters.

Entel is the largest telecommunications company in Bolivia, commanding 80 percent of the long distance market and 70 percent of the mobile telephone services.

Arce said Bolivia will not allow the World Bank to arbitrate in a dispute with Telecom Italia over compensation for the nationalization.

Bolivia's withdrawal from the World Bank's International Center for Settlement of Investment Disputes (ICSID) last year makes the country immune to a claim filed in May by the Italian firm, Arce said.



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"Bolivia has pulled out of the ICSID ... it does not allow this institution to rule over disputes related to investments," said Arce, who was appointed in June to defend Bolivia in legal battles over the nationalization of foreign firms.

The state takeover of Entel is part of a drive by leftist President Morales to return to state control key economic sectors.

Morales has signaled Bolivia will not compensate Telecom Italia.

No one could be reached for comment at the company's offices in La Paz.

"We hope that (Telecom Italia) will stop the process at the ICSID and sit down... to find a solution," said Arce. (Reporting by Eduardo Garcia)

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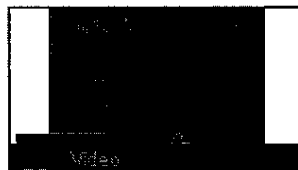
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